IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRD DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 274 of 2005

Between:

1 Smt.Behara Suvaranamma W/o.Behara Vijaya Bhushan Rao Patanik
Srikakulam.
2 Behara Ananda Rao S/o.Vijaya Bhushan Rao Patnaik
R/o.13-9-121/4, ManguvariStreet, Srikakulam.
3 Behara Seetharam S/o. of Vijaya Bhushana Rao Patnaik
R/o.13-9-121/4, ManguvariStreet, Srikakulam.
4 Behara Dhanunjaya Rao S/o.Vijaya Bhushan Rao Patnaik
R/o.13-9-121/4, ManguvariStreet, Srikakulam.
5 Smt.Raghupatruni Laxmi Kumari W/o.Dasababu (o/o.B.V.Bhushana Rao Patanik)
R/o.13-9-121/4, ManguvariStreet, Srikakulam.

..... PETITIONERS

AND

1 The Employees Provident Fund Organization, rep by its Asst. Commissioner (Pensions) Marripalem, Vuda Layout, Visakhapatnam.
2 The Girijan Cooperative Corporation Ltd., rep by General Manager, Visakhapatnam.
3 The Girijan Cooperative Corporation Ltd., rep by Chairman, Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, or order or direction, more particularly one in the nature of writ of Mandamus, declaring the action of the 1st respondent in insisting succession certificate vide his Proc.No.A9/VP/Pen.Mis.Section/MPPO No.5245/2004 dated 24.8.04 is arbitrary, bad and illegal and violative of Article 14 of the Constitution of India, consequently direct the 1st respondent to release the provident fund pertaining to the 1st petitioner's husband with interest at 24% p.a. from the date of retirement till the date of realization in the interest of justice.

Counsel for the Petitioners: MR.KURITIBHASKARA RAO

Counsel for the Respondent No.1: Mr. R.N. Reddy
Counsel for the Respondents: MR.A.PARVATHESWARA RAO

The Court made the following :

ORAL ORDER:

This writ petition is filed seeking a Mandamus to declare the action of the 1st respondent in insisting on the succession certificate vide his Proceedings No.AP/VP/Pen.Dis. Section/MP PO No.5245/2004, dated 24.8.2004 as illegal and arbitrary.

The petitioners' case is that the husband of the 1st petitioner joined in the 2nd respondent-organization on 18.6.1974 and retired from service on 31.8.1997 on attaining the age of superannuation. The 1st petitioner's husband died on 20.6.2003 leaving behind her and other four children. After obtaining legal heir certificate from the Mandal Revenue Officer, Srikakulam, she made representations on 10.10.2003 and 5.12.2003 respectively requesting the 1st respondent to release the pension pertaining to her husband, but no pension has been granted for Return of Capital amount. The respondents directed the writ petitioners to produce Succession Certificate.

A detailed counter affidavit has been filed by the 1st respondent stating that the monthly pension was released with effect from 21.6.2003 and with regard to the Return of Capital, the same could not be released to her as her later husband did not specify the nominee's name in Form D claim form and therefore, the 1st petitioner has to submit Succession Certificate. Hence, the impugned proceedings do not suffer from any legal infirmities.

Heard the learned counsel for the petitioners and the learned standing counsel for the 1st respondent and perused the material on record.

Sub-para 7.9.8 of Manual of Accounting Procedure reads thus:

> *"If there is no valid nomination on the day of death of the pensioner or spouse, as the case may be, the benefit shall be payable as per the Succession Certificate issued by the Court of Law".*

It is specifically stated in the counter that the husband of the 1st petitioner did not specify the nominee's name in Form-D claim form. Therefore, the petitioners are required to produce the Succession Certificate.

For the aforesaid reasons, the writ petition is disposed of with a direction to the petitioners to obtain Succession Certificate from the competent Court of Law and submit the same to the respondents, thereafter, the same shall have to be considered in accordance with the Rules. In the circumstances of the case, there shall be no order as to costs.

(K.C. BHANU, J)

3rd March, 2005.

bcj

To

1 The Asst. Commissioner (Pensions), The Employee Provident Fund Organization, Marripalem, Vuda Layout, Visakhapatnam.
2 The General Manager, The Girijan Cooperative Corporation Ltd., Visakhapatnam.
3 The Chairman, The Girijan Cooperative Corporation Ltd., Visakhapatnam.

4 Two C.D. copies.